

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1812 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 16-28-5-1.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 1999]: **Sec. 1.5. The commissioner shall place each breach of this**
- 5 **article or a rule adopted under this article into one (1) of the**
- 6 **following scope and severity categories that is required by the**
- 7 **federal enforcement system under 42 CFR 488.404(b):**
- 8 (1) A - Isolated breaches that constitute no actual harm with
- 9 potential for minimal harm.
- 10 (2) B - A pattern of breaches that constitute no actual harm
- 11 with potential for minimal harm.
- 12 (3) C - Widespread breaches that constitute no actual harm
- 13 with potential for minimal harm.
- 14 (4) D - Isolated breaches that constitute no actual harm with
- 15 potential for more than minimal harm that is not immediate
- 16 jeopardy.
- 17 (5) E - A pattern of breaches that constitute no actual harm
- 18 with potential for more than minimal harm that is not
- 19 immediate jeopardy.
- 20 (6) F - Widespread breaches that constitute no actual harm
- 21 with potential for more than minimal harm that is not
- 22 immediate jeopardy.
- 23 (7) G - Isolated breaches that constitute actual harm that is
- 24 not immediate jeopardy.

(8) **H - A pattern of breaches that constitute actual harm that is not immediate jeopardy.**

(9) **I - Widespread breaches that constitute actual harm that is not immediate jeopardy.**

(10) **J - Isolated breaches that constitute immediate jeopardy to resident health or safety.**

(11) **K - A pattern of breaches that constitute immediate jeopardy to resident health or safety.**

(12) **L - Widespread breaches that constitute immediate jeopardy to resident health or safety.**

SECTION 2. IC 16-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The commissioner shall impose the following remedies for breaches of this article or a rule adopted under this article:

(1) For an offense, the remedies specified in subsection (b)(1) through (b)(2) **and (b)(7).** The commissioner may also impose the remedy specified in subsection (b)(3).

(2) For a deficiency, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4) **and (b)(7).**

~~(3) For a breach that is a repeat of the same deficiency within a fifteen (15) month period, the remedies specified in subsection (b)(1) through (b)(2). The commissioner may also impose the remedy specified in subsection (b)(3).~~

~~(4) (3) For a noncompliance, the remedies specified in subsection (b)(5) through (b)(6): (b)(7).~~

~~(5) (4) For a breach that is a repeat of the same noncompliance within a fifteen (15) month period, the remedies specified in subsection (b)(1). The commissioner may also impose the remedies specified in subsection (b)(4) and (b)(7).~~

~~(6) (5) For a nonconformance, the remedies specified in subsection (b)(5).~~

~~(7) (6) For a breach that is a repeat of the same nonconformance within a fifteen (15) month period, the remedies specified in subsection (b)(5) through (b)(6): (b)(7).~~

(b) The remedies for breaches of this article or rules adopted under this article are as follows:

(1) Issuance of an order for immediate correction of the breach.

(2) Imposition of a fine not to exceed ten thousand dollars (\$10,000) or suspension of new admissions to the health facility for a period not to exceed forty-five (45) days, or both. **However, a fine not to exceed twenty thousand dollars (\$20,000) may be imposed if a breach has occurred at a scope and severity level of K or L.**

(3) Revocation by the director of the health facility's license or issuance of a probationary license.

(4) Imposition of a fine not to exceed five thousand dollars (\$5,000) or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both. **However, a fine not to exceed ten thousand dollars (\$10,000) may be imposed if a breach has occurred at a scope and severity level of H, I, J, K, or L.**

(5) A requirement that the health facility comply with any plan of correction approved or directed under section 7 of this chapter.

(6) If the health facility is found to have a pattern of breach, the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days **if a breach has occurred at a scope and severity level of G, H, I, J, K, or L** or impose a fine not to exceed one thousand dollars (\$1,000), or both. **However, a fine not to exceed two thousand dollars (\$2,000) may be imposed if a breach has occurred at a scope and severity level of F, G, H, I, J, K, or L.**

(7) The commissioner may offer the health facility the option of expending an amount of money that is equivalent to an available fine instead of the available fine to retain a consultant or to purchase equipment approved by the director to assist the health facility in correcting a breach of this article or a rule adopted under this article. The state department shall establish procedures and criteria for selection and monitoring of a consultant or equipment.

(c) If a breach is immediately corrected and the commissioner has imposed remedies under subsection (b)(2), the commissioner may waive not more than fifty percent (50%) of the fine imposed and reduce the number of days for suspension of new admissions by one-half (½).

(d) The commissioner may, with the concurrence of a licensed physician, impose the following:

(1) For an omission of care or an act that does not fall within a classification of a rule under this section and that the facility should reasonably have known would present a substantial probability that death or a life threatening condition will result, one (1) or any combination of the remedies specified in subsection (b)(1) through (b)(3).

(2) For an omission of care or an act that:

(A) does not fall within a classification of a rule under this section; and

(B) the facility should reasonably have known would result in an immediate or a direct, serious adverse effect on the health, safety, security, rights, or welfare of a patient;

the remedies specified in subsection (b)(1) or (b)(4), or both.

(e) The fines or suspended new admissions imposed on the health facility under subsections (a) and (b) may be based upon each omission of care or act classified as an offense, deficiency,

1 repeat of the same deficiency, noncompliance, or repeat of the
 2 same nonconformance. However, the commissioner may not
 3 suspend new admissions to the health facility for more than ninety
 4 (90) days.

5 SECTION 3. IC 16-28-5-11 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 1999]: **Sec. 11. For health facilities that are certified for**
 8 **participation in Medicare under 42 U.S.C. 1395 et seq. or Medicaid**
 9 **under 42 U.S.C. 1396 et seq., the state department may not collect**
 10 **both a fine under this article and a civil monetary penalty under 42**
 11 **CFR 488.**

12 SECTION 4. IC 16-28-11-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Except as provided
 14 in IC 16-28-1-11, ~~finer or~~ fees required to be paid under this article
 15 shall be paid directly to the director who shall deposit the ~~finer or~~ fees
 16 in the state general fund.

17 SECTION 5. IC 16-28-12-5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 1999]: **Sec. 5. (a) The state department shall contract with an**
 20 **independent organization to operate the informal dispute**
 21 **resolution process required by 42 CFR 488.331.**

22 **(b) The independent organization shall employ or contract with**
 23 **an interdisciplinary team consisting of at least a registered nurse,**
 24 **social worker, and dietician. The state department shall assure that**
 25 **each member of the interdisciplinary team:**

26 **(1) is knowledgeable concerning health facility operation; and**

27 **(2) receives training regarding federal survey and**
 28 **certification and state licensure requirements.**

(Reference is to HB 1812 as printed February 25, 1999.)

Representative Hasler